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# **DEPARTMENT OF COMMERCE**

## **American Samoa Government**

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*In reply refer to:*  
**Serial No. DOC-**

### **DEPARTMENT OF COMMERCE [DOC] ECONOMIC DEVELOPMENT DIVISION [EDD] HOW TO APPLY FOR A BUSINESS LICENSE**

Any person at least 21 years of age who wishes to establish a business in the Territory of American Samoa must obtain a valid business license certificate.

Any person, partnership or corporation, which operates a business venture in two or more locations in American Samoa, must obtain a business license certificate for each location. Similarly, any person, partnership or corporation, which operates a business venture that is engaged in two or more activities, must obtain a separate business license certificate for each activity.

#### **Business License Application Process:**

The applicant should proceed to DOC offices located in the A.P. Lutali Executive Office Building, Village of Utulei and obtain a business license application. DOC staff will conduct an initial interview to determine whether the applicant will need to apply for a land use permit or zoning variance in relation to the business license application. DOC staff will provide the applicant with all the necessary permit application forms and advise the applicant to route the application to various government agencies and special licensing authorities for clearance and authorization. Depending on the type of business activity staff will explain the requirements and refer you to the relevant American Samoa Government (ASG) agencies as stipulated on the application form.

1. The following documents must accompany your license application:
  - birth certificate;
  - lease agreement, if leasing from a commercial building;
  - ASG lease agreement, if leasing ASG property;
  - passport for all U.S. citizens/ nationals;
  - partnership agreement;

- articles/certificate of incorporation;
- articles/permit to transact business as a foreign corporation;
- proof of bank accounts or financial statements, or both, for verification of capital investments upon request by the licensing authority;
- proof of issuance of stock certificates verifying ownership if the applicant is a corporation;
- immigration clearance for private employment for all aliens involved in business;
- relevant trade certifications;
- land-use permit application if applicable;
- zoning variance application if applicable; and
- site plan with parking plan.

2. A copy of a required license or certificate from the Territory Board of Public Accountancy, Alcoholic Beverage Control Board, Commerce Commission Board, Contractors' License Board, Cosmetology Board, Marine Inspectors' Board, Professional Surveyors' Board, Health Services Regulatory Board, Environmental Health Services Facilities Health Permit, ASEPA/Environmental Quality Commission, Chief Justice Court House of American Samoa, Tradesman Examiners' Board, Agriculture Produce Board, Commissioner of Insurance, Real Property Management Board, and etc. which ever special licensing authority is required by your type of business activity. Staff will determine the appropriate special licensing authority or boards and commissions for the applicant to route their business license application for the required approval and to be signed off by the authorized official.

3. Corporations must submit a copy of the Article of Incorporation, certified by the Treasurer of American Samoa. Partnership must submit a notarized partnership agreement.

4. Aliens and non-residents must submit an approved form certified by the Chairman of the Immigration Board of American Samoa.

Note: If you intend to erect a new structure or planning to extend or remodel the existing commercial structure, you may be required to appear before the Project Notification Review System (PNRS) and/or Zoning Board to process an LUPA and/or application for Zoning Variance. Staff will be advise if it is necessary.

Once you have satisfied all requirements return your business license application to the EDD staff who will review your application for completeness. Then the completed application will be forwarded to the Territory Planning Commission (TPC) for review. If your application is approved it is then sent to the Governor's Office for final review and approval/action.

The business license application is then returned to DOC and EDD staff will notify you of the decision. If approved, the Department of Treasury, Revenue Branch, will issue the business license certificate upon payment of the appropriate fees.

## 5. Licensing for Non-Residents.

When an application is received by a non-American Samoan or a partnership or corporation where the majority of stock is owned by such persons, the application is referred to the TPC for review in the context of the following standards:

- Traffic safety;
- Adequate parking facilities;
- Availability of water and sewage facilities;
- Effect on land resources and economic opportunities for resident Samoans;
- Effect on Samoan customs, culture and traditions; and
- Conformity to the general economic plan

Additional information required for TPC review:

- New businesses that are majority-owned by non-American Samoans must submit certified financial statements for each non-American Samoan principal;
- Industries seeking establishment in the territory must transmit a formal business proposal to the commission;
- A license application form must be filled out by each applicant;
- It is to the advantage of the applicant to submit any relevant documents which would solidify his proposal;
- The TPC may at times request a sum of money to be placed in escrow to offset unanticipated payroll deficit and/or other liability; and
- The TPC shall have the authority to demand additional information if original data submitted is not satisfactory

### Confidentiality Caveat:

The TPC recognizes that in assessing the merits of business proposals and license applications, it is necessary for applicants to submit information which is of a confidential nature and which may conceivably benefit competitors of the proposed business. The TPC thus recognizes the confidentiality of such submittals and will restrict review of, same to members of the commission and such officials of government as are necessary.

The TPC may review the application according to specific criteria, to determine whether the proposed business will have an adverse effect on land resources and economic opportunities for resident Samoans. After review, the TPC may forward the application to the Governor with recommendation for denial or approval.

Notwithstanding, applicants should be aware that all documents in files of the AGS are public records and as such open to public inspection unless the information contained therein is confidential, e.g. medical records of the applicant, or applicants Social Security Number, etc. Additionally, applicants may inform EDD staff that that certain information is proprietary, i.e. trade secrets. A determination whether any information is *confidential* will be made by EDD staff and the applicant will be so informed.

6. Term of License.

A business license certificate regardless of when issued or renewed expires on 31 December of the year in which it was issued or renewed. Licenses are renewed by filing a Business License Renewal Application with the EDD and paying the appropriate business license fee at the Department of Treasury, Revenue Branch.

7. Enforcement Action.

Any business license certificate issued to a person that is based on information subsequently found by the TPC or the Governor to be false can be revoked. A licensee who fails to renew his license on or before December 31 will be assessed a penalty of \$2 per day. Any business that fails to renew its license on or before 30 January is required to cease all business activity and may be subject to prosecution pursuant to *ASCA § 27.0219 (b)*.

8. Exemptions:

Businesses exempted from obtaining a business license are:

- Any business or trade conducted by the United States government, or for the sole, direct benefit or under the direct supervision of the American Samoa Government;
- Selling or marketing by an American Samoan agricultural products produced at their farm and in its natural state; and
- business activity that qualifies as not-for-profit pursuant the Internal Revenue Code.